

AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1676**

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**Introduced by Assembly Member Fuentes**

January 21, 2010

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An act to add Section 1065 to the Government Code, relating to elected officials, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1676, as amended, Fuentes. Elected officials: residency requirements.

The California Constitution requires that a person reside for one year within the legislative district for which he or she seeks election as a Member of the Legislature. Various statutory provisions impose residency requirements on other specified elected officials in California.

This bill would require that a person elected to a state or local public office maintain his or her place of residence within the jurisdiction within which voters are qualified to vote for the office during his or her term of office. The bill would require a person who violates this provision to immediately forfeit his or her office and would disqualify the person from holding any state or local public office ~~in the future~~ *for a period of 3 years*. The bill would provide that, *except for Members of the Legislature*, these provisions would apply retroactively to all persons holding state or local public office at the time of the effective date of the bill. Commencing with persons serving terms of office beginning on or after November 2, 2010, the bill would also make a violation of the residency requirement punishable by either a civil penalty not to exceed \$1,000 or a fine not to exceed \$1,000,

imprisonment in a county jail for no more than 6 months, or by both fine and imprisonment. The bill would authorize *the Attorney General*, a district attorney, a county counsel, or a city attorney with enforcement authority to enforce a violation of these provisions. *The bill would exempt a judge of a court of record from the bill's provisions.*

By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1065 is added to the Government Code,
- 2 to read:
- 3 1065. (a) Notwithstanding any other provision of law, a person
- 4 elected to state or local public office must continue to maintain
- 5 his or her place of residence within the jurisdiction in which voters
- 6 are qualified to vote for the office during his or her term of office.
- 7 A person does not violate this subdivision if, after being elected
- 8 for a term of office, the boundaries of the jurisdiction in which
- 9 voters are qualified to vote for the office are changed during that
- 10 term of office.
- 11 (b) A person who violates subdivision (a) shall immediately
- 12 forfeit his or her office and is ~~forever~~ disqualified from holding
- 13 any state or local public office *for a period of three years*.
- 14 (c) A person who violates subdivision (a) is punishable by one
- 15 of the following:
- 16 (1) A civil penalty not to exceed one thousand dollars (\$1,000).
- 17 (2) By imprisonment in a county jail not exceeding six months,
- 18 or by a fine not exceeding one thousand dollars (\$1,000), or by
- 19 both that fine and imprisonment.

1 (d) ~~A—The Attorney General, a district attorney, a county~~  
2 ~~counsel, or a city attorney shall have the authority to seek~~  
3 ~~enforcement of this section for a violation.~~

4 (e) ~~Subdivisions—Except for Members of the Legislature,~~  
5 ~~subdivisions (a) and (b) shall be applied retroactively to all persons~~  
6 ~~holding state or local public office at the time of the effective date~~  
7 ~~of the statute that added this section,—except that subdivision.~~  
8 *Subdivision (c) shall apply only to persons serving terms of office*  
9 *commencing on or after November 2, 2010.*

10 (f) *This section does not apply to a judge of a court of record.*

11 SEC. 2. The provisions of this section are severable. If any  
12 provision of this section or its application is held invalid, that  
13 invalidity shall not affect other provisions or applications that can  
14 be given effect without the invalid provision or application.

15 SEC. 3. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.

24 SEC. 4. This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or safety within  
26 the meaning of Article IV of the Constitution and shall go into  
27 immediate effect. The facts constituting the necessity are:

28 ~~Because existing law is unclear as to whether a public official~~  
29 ~~must reside in the jurisdiction in which voters are qualified to vote~~  
30 ~~for the office during his or her incumbency in the office, it is~~  
31 ~~necessary that this act take immediate effect.~~

32 *Because existing law is unclear as to whether state and local*  
33 *officials must continue to reside within the districts that they*  
34 *represent, every election can potentially result in a fraud on the*  
35 *voters, as the public presumes that the persons elected to represent*  
36 *them live within the district. Residency in the district is crucial*  
37 *because, to effectively represent a district, an elected official must*  
38 *possess knowledge of the needs and idiosyncrasies of the*

- 1 *communities that he or she represents. Therefore, it is necessary*
- 2 *that this act take immediate effect.*

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